

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	Atty. Dkt. No.: 041443-00752
Eva Ackerman and Randy Gene Clark§		
Serial No.:	09/764,572	§
		§
Filed:	January 18, 2001	§
		§
For:	A Method of Assisting a Compromised Barrier	§
		§

Group Art Unit: 2831

Examiner: Patel, Dhirubhai R.

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SEP 19 2005

RESPONSE TO OFFICE ACTION DATED APRIL 19, 2005

Dear Sir:

This communication is in response to the Office Action dated April 19, 2005.

REMARKS

Claims in the Application. Claims 23-27, 37-38 and 40 are active in this application. Reconsideration is respectfully requested.

Examiner's Rejection of Claims 23-27, 37-38 and 40 Under 35 U.S.C. § 102(e) Over Dykoff. The Examiner continues to refuse to review the supporting Exhibits of the Declaration in their entirety. For instance, the Examiner indicates that "Exhibit A" fails to provide information "about a gasket comprising fire retardant material of a fire resistant insulated material containing mineral wool or intumescence graphite". The Examiner incorrectly concludes that 37 CFR § 1.131 requires that a single Exhibit contain all elements of a claim. In the Office Action, the Examiner notes the deficiency in *each* Exhibit but yet does not comment on what the totality of the Exhibits demonstrate. The Declarant has provided supporting documentation which establishes the date of invention prior to August 25, 2000. There is no requirement that a 37 CFR § 1.131 Declaration contain Exhibits wherein each Exhibit satisfies every element of the claim. The totality of the supporting Exhibits attached to the Declaration establishes invention of the subject matter of the rejected claims prior to August 25, 2000.